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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
ARTISAN MANUFACTURING CORPORATION, :

Plaintiff, :

- against - :

ALL GRANITE & MARBLE CORPORATION., :

Defendant. :

Civil Action No.: 07 CV 11278

----- X
**DECLARATION OF JOHN MALTBIE IN FURTHER SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY INJUNCTION**

EXHIBIT E

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARTISAN MANUFACTURING
CORPORATION,

Plaintiff,

No. 07-CV-11278

(WHP)

-against-

ALL GRANITE & MARBLE
CORPORATION,

Defendant.

- - - - -x

DEPOSITION OF ALLISON DAVIES

New York, New York

Wednesday, February 6, 2008

Reported by:

JEFFREY BENZ, CRR, RMR

JOB NO. 15219

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February 6, 2008
11:58 a.m.

Deposition of ALLISON DAVIES, held at the offices of Arnold & Porter, 399 Park Avenue, New York, New York, pursuant to Supboena, before Jeffrey Benz, a Certified Realtime Reporter, Registered Merit Reporter and Notary Public of the State of New York --

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APPEARANCES:

HOFFMANN BARON, LLP

Attorneys for Plaintiff

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Syosset, New York 11791-4407

BY: R. GLENN SCHROEDER, ESQ.

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399 Park Avenue

New York, New York 10022-4690

BY: JOHN MALTBIE, ESQ.

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IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to before any officer authorized to administer an oath with the same force and effect as if signed and sworn to before the Court.

-oOo-

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Davies
ALLISON DAVIES
called as a witness, having been duly sworn by a Notary Public, was examined and testified as follows:

EXAMINATION BY
MR. SCHROEDER:

Q. Good afternoon. Could you please state your full name and residence for the record.

A. Allison Davies, 464 62nd Street, Brooklyn, New York 11220.

Q. Thank you.

MR. SCHROEDER: I'm going to mark the following subpoena as Defendant's Exhibit 67.

(Subpoena was marked Defendant's 67 for identification, as of this date.)

Q. Ms. Davies, you have before you what's been marked as Defendant's 67. Are you familiar with what that document is?

A. No, I'm not.

Q. Are you aware that you're here today subject to a subpoena?

A. Yes.

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1 Davies
 2 **Q. And you understand -- let me start**
 3 **over.**
 4 **Have you ever been deposed before?**
 5 A. Yes.
 6 **Q. How many times?**
 7 A. Once.
 8 **Q. Was that in the context of**
 9 **investigation you had conducted?**
 10 A. Yes.
 11 **Q. Thank you.**
 12 **Just to go over what will happen**
 13 **today, I'll ask you a series of questions, I'll**
 14 **expect you to answer the questions truthfully to**
 15 **the best of your knowledge. If you don't know**
 16 **an answer, please say you don't know. If you**
 17 **don't understand a question, please tell me,**
 18 **I'll try to rephrase it, restate it. If you**
 19 **need a break, take a break, so those shouldn't**
 20 **be too long.**
 21 **Is there any reason why you wouldn't**
 22 **be able to answer questions truthfully today?**
 23 A. No.
 24 **Q. Taking any medications that would**
 25 **affect your ability to answer questions?**
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1 Davies
 2 **Q. And what year was that?**
 3 A. That was 1999.
 4 **Q. 1999?**
 5 A. Yes.
 6 **Q. So between 1990 and 1999, were you**
 7 **employed?**
 8 A. Yes.
 9 **Q. And in what capacity?**
 10 A. I was a preschool teacher for five
 11 years, and I also worked at an art museum.
 12 **Q. When did you first start working in**
 13 **the private security -- let me rephrase that --**
 14 **in the private investigation business?**
 15 A. It was four years ago.
 16 **Q. Have you been with the same company**
 17 **this whole time?**
 18 A. Yes.
 19 **Q. Did you receive any special training**
 20 **from the company you worked for?**
 21 A. Yes.
 22 **Q. And what training did that involve?**
 23 **What did that involve?**
 24 A. We are trained in specific products
 25 that we investigate.
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1 Davies
 2 A. No.
 3 **Q. Thank you.**
 4 **Quickly, could we just review your**
 5 **educational background. Did you attend college?**
 6 A. I did, yes.
 7 **Q. And where did you attend college?**
 8 A. NYU.
 9 **Q. Did you receive a degree?**
 10 A. Yes.
 11 **Q. What was that?**
 12 A. A BFA.
 13 **Q. BFA, what is --**
 14 A. Bachelor of fine arts.
 15 **Q. Okay. What year was that?**
 16 A. 1990.
 17 **Q. Okay. Following college, did you**
 18 **attend any additional schooling?**
 19 A. Yes.
 20 **Q. Where was that?**
 21 A. I went to Yale University. Yale
 22 School of Art.
 23 **Q. And did you receive a degree?**
 24 A. Yes. That's a master of fine arts,
 25 MFA.
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1 Davies
 2 **Q. Could you give me any more specific**
 3 **detail?**
 4 A. A representative from a company that
 5 we work for, that we do investigations for, will
 6 come to the office and show us a real -- an
 7 authentic product, and also a counterfeit
 8 product, and so they teach us ways to detect
 9 counterfeit products.
 10 **Q. Is most of the work you do involving**
 11 **trademark goods?**
 12 A. Yes.
 13 **Q. Do you deal with other types of**
 14 **investigations besides trademarked goods?**
 15 A. No.
 16 **Q. So in your four years with Abacus,**
 17 **you've been working with investigating**
 18 **trademarked goods.**
 19 A. Yes.
 20 **Q. Now, you used the word "counterfeit" a**
 21 **minute or so ago. What do you mean by the term**
 22 **"counterfeit"?**
 23 MR. MALTBIIE: Objection to form.
 24 **Q. You can answer if you understand.**
 25 MR. MALTBIIE: If you understand, you
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1 Davies
2 can tell him what your understanding of
3 a -- what a counterfeit is.
4 A. And -- an inauthentic, if that is a
5 word -- an inauthentic product, a product that
6 is of lesser quality and not made by the company
7 that's supposed to make it.
8 **Q. Can you give me an example, other than**
9 **the work you did on behalf of Arnold & Porter,**
10 **assuming it's not confidential, as to a**
11 **counterfeit product you've investigated in the**
12 **past.**
13 A. Timberland Boots is one.
14 **Q. And what type of product did you**
15 **investigate with respect to Timberland Boots?**
16 A. There's a particular line of boots
17 called the 161.
18 **Q. Okay. And do those 161 line of**
19 **boots -- they use a Timberland trademark?**
20 A. Yes.
21 **Q. What would that trademark be, if you**
22 **know?**
23 A. The trademark on the authentic pair?
24 **Q. Well, we'll start with that. What's**
25 **the trademark on the authentic pair?**
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1 Davies
2 A. There's an emblem. The trademark is
3 on the outside of the boot.
4 **Q. Okay. So the trademark in question**
5 **was an emblem?**
6 A. Yes. The Timberland -- the
7 Timberland -- the -- the Timberland design for
8 their trademark is on the outside of the boot.
9 **Q. Okay. And what was the emblem on the**
10 **alleged counterfeit boot?**
11 A. They had a -- it was there.
12 **Q. The same emblem?**
13 A. Yes.
14 **Q. The identical emblem?**
15 A. Yes.
16 **Q. Thank you.**
17 **If you could take a look at**
18 **Defendant's 67, if you notice, about halfway**
19 **down the second checked box refers to, "You are**
20 **commanded to produce and permit inspection and**
21 **copying of the following documents or objects,"**
22 **and below that it says, "All documents**
23 **pertaining to any and all investigations of All**
24 **Granite & Marble Corporation on behalf of**
25 **Artisan Manufacturing Corporation, including**
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1 Davies
2 **instructions, invoices, notes, results and other**
3 **related documents."**
4 **Did you bring any documents with you**
5 **today?**
6 A. I -- no, I did not. Well, I mean I
7 brought copies of things that John has.
8 MR. MALTBIE: For the record, we've
9 produced documents on Abacus's behalf as
10 part of Artisan's production. The
11 documents are ART 022 through ART 040. I
12 think Ms. Davies brought with her copies of
13 some of the same documents that were
14 produced.
15 MR. SCHROEDER: That's fine. Thank
16 you.
17 Let's go ahead at this point and let's
18 mark as Defendant's 68, a copy of the
19 Abacus report that Mr. Maltbie just
20 referred to.
21 (Copy of the Abacus report was marked
22 Defendant's 68 for identification, as of
23 this date.)
24 **Q. Ms. Davies, I take it you're familiar**
25 **with this report.**
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1 Davies
2 A. Yes.
3 **Q. Was this prepared by you?**
4 A. Yes.
5 **Q. You personally?**
6 A. Yes.
7 **Q. Okay. Let's walk through the report**
8 **in detail, if we can.**
9 **The report states that investigation**
10 **was initiated by Ms. Alisa Cahan of Arnold &**
11 **Porter. Do you recall the date on which you**
12 **were contacted by Ms. Cahan?**
13 A. No, I don't.
14 **Q. The next paragraph refers to an**
15 **investigation taking place on November 2, 2007.**
16 MR. MALTBIE: Object to form.
17 **Q. Actually, let me restate that. The**
18 **next paragraph refers to Ms. Davies' meeting**
19 **with Artisan's personnel on November 2, 2007.**
20 **So backing up to my earlier question,**
21 **do you recall if the initial contact took place**
22 **within a week or two of that initial visit?**
23 A. Yes.
24 **Q. Thank you.**
25 **Okay. Referring back to the first**
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1 **Davies**
2 paragraph, and in particular to the second
3 sentence, do you see your reference to the word
4 "counterfeit" there?
5 A. Yes.
6 Q. Do you recall if someone referred to
7 the Artisan sinks as counterfeit, or is that
8 your representation of the types of sinks in
9 question?
10 MR. MALTBIE: Objection to form.
11 A. I don't recall.
12 Q. That's fine. Thank you.
13 And the latter portion of that
14 sentence refers to "steel sinks were being sold
15 or included in promotion offering a free sink
16 with countertop purchase."
17 Did you uncover any evidence as to any
18 sinks being sold?
19 MR. MALTBIE: Objection to form.
20 Q. You can answer if you understand.
21 A. Are you asking if there are -- if I
22 saw any sinks being sold, any money exchanged?
23 Q. Correct.
24 A. No.
25 Q. Thank you.

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1 **Davies**
2 Q. Can you explain or can you describe
3 for me what took place that day.
4 A. It was a training session. We went
5 out there to meet Chuck and Joe to view a --
6 a -- an authentic sink, and also read over
7 materials or -- any kind of information that had
8 to do with the sink.
9 Q. So they showed you sinks that day.
10 A. Yes.
11 Q. What kind of material did they show
12 you, if you recall?
13 A. Various kitchen magazines, life style
14 magazines, with ads, with their product in it.
15 Q. Did they give you material to take
16 that day?
17 A. Yes.
18 Q. Do you recall what they gave you?
19 A. Two sink magazines called Kitchen
20 Trends -- or two house design magazines.
21 Q. Okay. Thank you.
22 That day, did they explain to you the
23 construction of the sinks, in particular,
24 whether they're 16-gauge or 18-gauge stainless
25 steel?

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1 **Davies**
2 Okay, let's take a look at the second
3 paragraph. It refers to initials, AO, which --
4 AO and AD.
5 Now, I assume AD refers to Allison
6 Davies, correct?
7 A. Yes.
8 Q. Who is AO?
9 A. Andrew Oberfeldt.
10 Q. Is he an employee of your company?
11 A. He's the owner of the company.
12 Q. Can you spell his last name for us.
13 A. O-B-E-R-F-E-L-D-T.
14 Q. And did he accompany you on that day
15 to present a husband and wife couple?
16 A. No.
17 MR. MALTBIE: Objection to form.
18 What day?
19 The day they went to Artisan, or the
20 day they went to All Granite?
21 Q. Let me rephrase that question.
22 On November 2, 2007, you yourself and
23 Mr. Oberfeldt visited Artisan's facilities in
24 Newark, correct?
25 A. Yes.

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1 **Davies**
2 A. Yes.
3 Q. How did they explain that to you, if
4 you recall?
5 A. They showed us a sink and told us that
6 they were 16-gauge steel, and on the underside,
7 they showed a special padding that was also --
8 that was part of the sink.
9 Q. Was that strictly on the underside of
10 the sink?
11 A. Yes, and the sides. Well, the whole
12 underside.
13 Q. So that would be the bottom and the
14 sides of the sink.
15 A. Yes.
16 Q. Thank you. Okay.
17 Let's take a look at the third
18 paragraph of your report, which states, "On
19 November 6, 2007, AO and AD visited the All
20 Granite & Marble Corporation in South
21 Plainfield, New Jersey."
22 So back to my earlier question, what
23 was the purpose of Mr. Oberfeldt accompanying
24 you on that visit, on November 6, 2007?
25 A. I don't know how to answer that.

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1 Davies
2 I'm --
3 MR. MALTBIE: Objection to form. If
4 there was a purpose, or....
5 A. I don't think there was a purpose.
6 I mean, he had accompanied me to the
7 training, so we went -- it was the same -- we
8 were following through.
9 Q. Okay. Did Mr. Oberfeldt conduct any
10 additional investigation that isn't represented
11 in your report here today?
12 A. No.
13 Q. November 6, 2007, was that your first
14 visit to an All Granite facility?
15 A. Yes.
16 Q. Have you visited the All Granite
17 facilities in Ridgefield Park?
18 MR. MALTBIE: Objection to form.
19 A. No.
20 Q. Have you visited the All Granite
21 facility in Pennsylvania?
22 MR. MALTBIE: Objection to form.
23 A. No.
24 Q. Okay. Let's take a look at the fourth
25 paragraph on the first page.
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1 Davies
2 you say that on the left wall, there is a small
3 entry to the second room and the bathrooms.
4 Now, if I ask you to flip back to the
5 photographs, Bates-stamped 36, the upper photo,
6 is that a reference to the entry to the second
7 room?
8 A. Yes.
9 Q. And that door you see straight ahead,
10 which appears to be red in the photograph, is
11 that the door out to the yard, if you recall?
12 A. No.
13 Q. What is that door?
14 A. It's to the warehouse.
15 Q. To the warehouse. Is that where they
16 keep the actual tile samples?
17 A. That's where they keep the granite
18 slabs.
19 Q. The granite slabs.
20 A. Yeah.
21 Q. So walking through that door actually
22 takes you outside of the building.
23 A. No. Just to a second area of the same
24 building.
25 Q. So you're still inside the building.
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1 Davies
2 You state that the retail area is
3 divided into two rooms, the front room being
4 approximately 5,000 square feet with the marble
5 and granite tile and table display.
6 If we refer to the pictures which are
7 attached to your report, in particular let's
8 look at what's stamped as Bates Document 34. If
9 you turn to that page.
10 Okay. The upper photograph, does that
11 refer to the front room of the approximately
12 5,000 square feet?
13 A. Yes.
14 Q. And the lower photograph, is that part
15 of the front room as well?
16 A. Yes.
17 Q. Now, if you turn to the next page,
18 which is stamped 35, Bates stamp 35, is that
19 referring to the marble and granite tile and
20 table display?
21 A. Yes.
22 Q. And does that appear in the front room
23 of approximately 5,000 square feet?
24 A. Yes.
25 Q. Now, turning back to the first page,
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1 Davies
2 A. Yes.
3 Q. And what was in that second area?
4 A. The granite slabs.
5 Q. Full piece slabs?
6 A. Yes.
7 Q. And that same photograph, I see it
8 looks like a display of countertops. Is that
9 the display you're referring to in this last
10 paragraph on page 1 when you say, an L-shaped
11 granite countertop around the rear and left wall
12 with several sinks and the -- in various designs
13 on display?
14 A. Yes.
15 Q. Is that what's shown in the top photo
16 on Bates stamp 36?
17 A. Yes.
18 Q. And again, when you turn to the
19 photograph shown on document 37, are those
20 detailed photographs of that same display?
21 A. Yes.
22 Q. Okay. Who took the photographs that
23 are shown and attached to your report?
24 A. I took them.
25 Q. And what kind of camera did you use to
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1 **Davies**
2 **take these?**
3 A. It's a video camera.
4 **Q. Was it hidden someplace?**
5 A. Yes.
6 **Q. Where was it hidden?**
7 A. In my purse.
8 **Q. Was anyone aware at All Granite that**
9 **you were taking photographs?**
10 A. No.
11 **Q. Now, back to page 1, the last sentence**
12 **says that each sink had a 4-by-6 piece of paper**
13 **with a serial number and a price written on it.**
14 **Do you see that?**
15 A. Yes.
16 **Q. If we refer back to the photograph**
17 **attached and marked as Bates Document 38, could**
18 **we look at the top photograph, I see what looks**
19 **like a white portion of paper with a number,**
20 **8455R, \$250 on it.**
21 A. Yes.
22 **Q. Is that the 4-by-6 piece of paper that**
23 **you're referring to?**
24 A. Yes.
25 **Q. And likewise in the lower photograph,**
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1 **Davies**
2 **the store at that time looking at samples?**
3 A. Yes.
4 **Q. Did you happen to notice how long**
5 **those customers took to pick out a sample?**
6 A. No.
7 **Q. Okay. The next sentence states that**
8 **AD spoke with a Peter Bucko, and you describe**
9 **what he looks like, his characteristics.**
10 **How long did you speak to Mr. Bucko**
11 **for, if you recall?**
12 A. Probably 20 minutes, in total.
13 **Q. Okay. So within that 20 minutes,**
14 **you've provided Mr. Bucko with the tile you had**
15 **selected, dimensions, and he was able to print**
16 **out an estimate with the cost of purchase and**
17 **install a countertop.**
18 A. Yes.
19 **Q. The process took about 20 minutes?**
20 Yes?
21 A. Yes.
22 **Q. Thank you.**
23 **Next, you state that Mr. Bucko took AD**
24 **and AO over to the tile display --**
25 **Again, is that the tile display in the**
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Page 23

1 **Davies**
2 **I see a white section of paper with the**
3 **designation, AF-590-529, \$140.**
4 A. Yes.
5 **Q. Thank you.**
6 **Let's turn to page 2 of your report.**
7 **First sentence states, "Protocol at All Granite**
8 **is to pick up your materials from the displays,**
9 **then wait in a line to speak to a representative**
10 **sitting at the right wall of desks."**
11 **Now, the displays you're referring to**
12 **are the displays we saw in the front room?**
13 A. Yes.
14 **Q. Did you actually go to those displays**
15 **and pick out a sample?**
16 A. Yes.
17 **Q. How long did that process take you to**
18 **do?**
19 A. About five minutes.
20 **Q. Did you know what sample you were**
21 **looking for?**
22 A. 340.
23 **Q. Did you pick any sample?**
24 A. Yes.
25 **Q. Did you observe any other customers in**
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1 **Davies**
2 **main room?**
3 A. Yes.
4 **Q. -- to discuss pricing and the**
5 **installation of sinks.**
6 **Mr. Bucko, AD and AO, moved into the**
7 **left room of the sink displays. Now, why at**
8 **that point did you move into the left room, if**
9 **you recall?**
10 A. That's where the sinks were on
11 display, and we were installing the kitchen
12 countertop.
13 **Q. Did Mr. Bucko suggest that you move**
14 **into that left room, if you recall?**
15 A. I don't remember.
16 **Q. Okay. Your report next states that**
17 **Mr. Bucko stated that a free sink is provided**
18 **with the installation of a countertop and a**
19 **coupon from the Clipper was provided. He then**
20 **told the investigators of the gauge and banged**
21 **on two sinks to show the difference in sound.**
22 **Can you describe what he actually did?**
23 MR. MALTBIE: Objection to form.
24 A. Can you explain what that means again?
25 **Q. You still have to answer the question.**
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Davies

MR. MALTBIE: You can still answer the question, but if -- just object by saying that she did describe what he did in the sentence. Are you asking for something more than that?

Q. Can you describe in more detail what Mr. Bucko did at that point? For example, which two sinks did he bang on? Did he bang on the bottom, did he bang on the sides? Did he hit it with his fist? Did you have a metal object that he banged on them with?

A. He banged on them on the inside of the sink and on the underside of the sink with his fist.

Q. He actually reached under the display and banged on the bottom --

A. Yes.

Q. -- with his fist.

A. Yes.

Q. Do you recall which two sinks he actually banged on?

A. Yes.

Q. Which two sinks were they?

A. In the picture, in the display, it

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Davies

with the serial number 8455R and price of \$250, and said it was a 16-gauge Artisan sink, and that they were tougher and better than other sinks on the market.

At that point, had you mentioned the word "Artisan" to Mr. Bucko, that you recall?

A. No.

Q. So Mr. Bucko offered on his own that that particular sink was an Artisan sink.

A. Yes.

Q. And he stated that they were tougher and better than the other sinks in the market.

A. Yes.

Q. Your report next states that AD provided a magazine ad for Artisan from Kitchen Trends magazine, and Mr. Bucko said this Artisan sink would be installed with the countertop for free as long as the coupon was provided.

Is that correct?

A. Yes.

MR. SCHROEDER: Let me go ahead and mark as Defendant's 69. I don't have an extra copy, but it's --

MR. MALTBIE: What page?

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Davies

was -- there was one in a corner, and then one to the right.

Q. Could you point them out in the photograph, if possible.

A. There's not a clear photograph.

Q. If we take a look at Bates Document 38, the upper sink, is that one of the two sinks that he banged on?

A. Yes.

Q. But as to the second sink he banged on, you don't recall which sink it was.

A. No. It was the one to the left of it, so I can't tell from the photograph, but if this is the sink that was in the corner --

Q. It would be the sink --

A. I think it is.

Q. Okay. The sink to the left of the 8455R sink shown on the top of Bates Document 38.

A. Yes.

Q. Thank you.

Okay. Next you refer back to page 2 of your report. You next state that Mr. Bucko pointed specifically to the D-shaped double sink

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Davies

MR. SCHROEDER: 106, 107.

(Kitchen Trends article, Bates-stamped 106 and 107, was marked Defendant's 69 for identification, as of this date.)

Q. I'm showing you what's been marked as Defendant's 69. And it's a two-page document, Bates Numbers 106 and 107.

Do you recall if this was the Kitchen Trends article that you referred to in your report?

A. No.

Q. It's not the report.

A. I don't recall.

Q. You don't recall. Please take a look at the second page. Do you recall if that second page was a portion of the article you had?

A. I don't recall.

Q. Thank you.

Okay. Back to page 2 of your report, the second paragraph. You state that you observed padding on the bottom side of the Artisan sink.

Now, at that point, what sink are you

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1 **Davies**
 2 referring to?
 3 A. The 8455R.
 4 Q. And that's the one that we saw in the
 5 upper photograph on document 38.
 6 A. Yes.
 7 Let me make sure. Yes.
 8 Q. Did you observe padding on any other
 9 sinks on display in the showroom?
 10 A. Yes, but not as thorough as that one.
 11 So --
 12 Q. That's fine. So you did actually look
 13 at the other sinks on display.
 14 A. Yes.
 15 Q. And in your opinion, the other sinks
 16 on display did not have that type of padding on
 17 the bottom.
 18 A. No.
 19 Q. Were you able to actually see the
 20 bottom of every sink on display in that
 21 showroom?
 22 A. Yes.
 23 Q. Okay. The next statement says that AD
 24 observed the Artisan logo under the 4-by-6 paper
 25 with the printed serial number and the price of

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Page 32

1 **Davies**
 2 Q. In your visit to the showroom on that
 3 date, did you observe any other sinks on display
 4 bearing the fleur-de-lis logo?
 5 A. No.
 6 Q. Okay. Let's continue with your
 7 report.
 8 The third paragraph of page 2 states
 9 that Mr. Bucko provided you with a sheet
 10 containing eight examples of sinks, four of
 11 which were out of stock. So to be clear, let's
 12 refer back to what's marked as Bates Document
 13 27.
 14 Do you see that?
 15 A. Yes.
 16 Q. Is that the sheet you referred to in
 17 paragraph 3 on page 2?
 18 A. Yes.
 19 Q. And the sinks with the Xs through them
 20 obviously are the sinks that were out of stock.
 21 A. Yes.
 22 Q. And then we see below that the 8455R
 23 sink.
 24 A. Yes.
 25 Q. And that's the sink that you observed

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Page 31

1 **Davies**
 2 the sink.
 3 So let's go back to Bates Document 38
 4 and to that upper photograph.
 5 Now, the 4-by-6 paper, as we said
 6 earlier, is that white portion of paper we see
 7 in the photograph?
 8 A. Yes.
 9 Q. What did you observe under that white
 10 portion of paper?
 11 A. I observed the Artisan logo.
 12 Q. And by that, do you mean the
 13 fleur-de-lis logo?
 14 A. Yes.
 15 Q. Was that white piece of paper covering
 16 the fleur-de-lis logo?
 17 A. Yes.
 18 Q. Did you have to pick up the piece of
 19 paper to see the logo?
 20 A. Yes.
 21 Q. Was it taped on the -- let me rephrase
 22 that question.
 23 How was that piece of paper secured to
 24 the sink?
 25 A. It was taped.

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1 **Davies**
 2 on display that day, correct?
 3 A. Yes.
 4 Q. Okay. If we go back to page 2 of your
 5 report, the third paragraph, it says, "That
 6 investigator AD asked to see the actual sink
 7 that would be installed to look for any
 8 imperfections."
 9 So by that I take it to mean that you
 10 had ask Mr. Bucko if you could see the actual
 11 sink.
 12 A. Yes.
 13 Q. According to the report, Mr. Bucko
 14 stated that after an order was placed and the
 15 installs made a template, AD could return to the
 16 store to inspect the sink and the countertop.
 17 Correct?
 18 A. Yes.
 19 Q. Did you return to the store to inspect
 20 the sink?
 21 A. I -- yes.
 22 Q. We'll come back to that.
 23 Following that, your next statement in
 24 this report says, "Because the sink on display
 25 was in pristine condition, investigator AD saw

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1 **Davies**
2 **no rational reason to push the matter further."**
3 **Can you explain further what you mean**
4 **by that sentence?**
5 **MR. MALTBIE:** Objection to form.
6 You can answer if there is something
7 further to add.
8 **A.** No, there isn't.
9 **MR. MALTBIE:** Do you have anything
10 further to add to that?
11 **THE WITNESS:** No.
12 **Q.** Okay. Now, that first visit to All
13 Granite did not result in the ordering of a sink
14 and/or countertop, correct?
15 **A.** Correct.
16 **Q.** Why didn't you order a countertop/sink
17 that day?
18 **A.** There -- to place an order, you needed
19 a house. So we -- we weren't prepared to place
20 the order.
21 **Q.** Did you have the authority to place an
22 order that day?
23 **A.** No.
24 **Q.** Okay. So if we go back to that third
25 paragraph, Mr. Bucko has offered to you to
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Page 35

1 **Davies**
2 **return to the store and inspect the sink, really**
3 **didn't make any sense that day because you**
4 **weren't ordering a countertop and a sink that**
5 **day, correct?**
6 **A.** Correct.
7 **Q.** But now, back to that last sentence in
8 the third paragraph, when you say that sink on
9 display was in pristine condition, and you saw
10 no rational reason to push the matter further,
11 was the condition of the sink the issue you were
12 investigating that day?
13 **MR. MALTBIE:** Objection to form.
14 **A.** Yes.
15 **Q.** When I say condition, you were
16 actually looking at -- rephrase that.
17 **Were you looking at the finish of the**
18 **sinks?**
19 **A.** In order to identify it as an Artisan
20 sink, yes.
21 **Q.** You -- did you take into account
22 finish to identify it as an Artisan sink, or did
23 you simply look for the fleur-de-lis logo?
24 **A.** It was a combination of the
25 fleur-de-lis logo and the manufacturing.
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Page 36

1 **Davies**
2 **Q.** By that you mean the padding?
3 **A.** Yes. And the gauge.
4 **Q.** Did you have a way of determining the
5 gauge of the sink?
6 **A.** No.
7 **Q.** Okay. Let's move on here.
8 **Your next paragraph, the final**
9 **paragraph on page 2 states that on November 27,**
10 **2007, investigator AD went to All Granite to**
11 **place an order for a countertop and sink for Joe**
12 **Amabile under the name Susan Murray.**
13 **Why did you use an alias that day?**
14 **A.** I don't give out my -- my real name.
15 **Q.** Okay. Company policy?
16 **A.** Yeah.
17 **Q.** That's fine.
18 **Now, between your first visit on**
19 **November 6 and your subsequent visit on**
20 **November 27, did you have additional**
21 **communications with Artisan personnel?**
22 **A.** Yes.
23 **Q.** And who did you speak with during that
24 period of time?
25 **A.** Joe.
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Page 37

1 **Davies**
2 **Q.** And what did those discussions
3 involve?
4 **A.** How he wanted the investigation to
5 proceed.
6 **Q.** Can you be more specific?
7 **A.** I guess to determine how we were going
8 to proceed would come from him, if we were going
9 to order an actual sink and countertop.
10 **Q.** Were these discussions -- did they
11 take place by phone?
12 **A.** Yes.
13 **Q.** Did you meet him in person during that
14 period of time?
15 **A.** No.
16 **Q.** How many conversations did you have
17 with Mr. Amabile during that period of time, if
18 you recall?
19 **A.** I don't recall.
20 **Q.** More than one?
21 **A.** More than one.
22 **Q.** When did Mr. Amabile provide you with
23 the final instructions to proceed with ordering
24 the countertop and sink?
25 **A.** I don't know.
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Page 38

1 Davies
 2 **Q. Would it have been shortly prior to**
 3 **the November 27 date?**
 4 A. Yes.
 5 **Q. Within a week?**
 6 A. Less than a week.
 7 **Q. Less than a week, okay. Thank you.**
 8 **And at that time Mr. Amabile, in**
 9 **addition to instructing you to order the**
 10 **countertop, provided you with a color for the**
 11 **granite and a construction for the bullnose?**
 12 A. Yes.
 13 **Q. And in addition, told you the type of**
 14 **sink he wanted ordered.**
 15 A. Yes.
 16 **Q. Okay. So on your second visit to All**
 17 **Granite, you met with a representative named**
 18 **Chris.**
 19 A. Yes.
 20 **Q. Was Mr. Bucko in the store that day --**
 21 A. No.
 22 **Q. -- do you recall?**
 23 **Do you recall what day of the week**
 24 **that was?**
 25 A. I don't.
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1 Davies
 2 **Q. Okay. How about "edge half bullnose,"**
 3 **is that your handwriting as well?**
 4 A. "Edge" is not, but "half bullnose" is.
 5 **Q. And the reference to Andrew, do you**
 6 **know what that means?**
 7 A. I don't know what that is, and I
 8 didn't write it.
 9 **Q. And "3917R stone," did you write that?**
 10 A. No.
 11 **Q. Okay. Thank you.**
 12 **Can we turn back to page 3 of your**
 13 **report, that first paragraph. You note that the**
 14 **drawing was measured. Then you note that Chris**
 15 **added a charge for sink installation until AD**
 16 **supplied Chris with a coupon from the Clipper.**
 17 **Now, when you say he added a charge,**
 18 **where do we see that in the documentation, if we**
 19 **do at all?**
 20 A. I don't see it.
 21 **Q. Okay. Can you elaborate on that**
 22 **point? You say he added a charge. Would that**
 23 **have been a charge to purchase a sink, or would**
 24 **that have been a charge to actually cut a hole**
 25 **in the countertop?**
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Page 39

1 Davies
 2 **Q. Weekday?**
 3 A. It was a weekday.
 4 **Q. Thank you.**
 5 **The golden beach granite color that**
 6 **Mr. Amabile requested, was that the sample you**
 7 **had picked up during your first visit?**
 8 A. No.
 9 **Q. Okay. Let's turn to the third page of**
 10 **the report.**
 11 **You refer to a drawing supplied by**
 12 **Mr. Amabile. First sentence.**
 13 A. Yes.
 14 **Q. Okay. When did Mr. Amabile provide**
 15 **that drawing to you, if you recall?**
 16 A. He faxed that to me a -- a day or two
 17 before I ordered the sink.
 18 **Q. Thank you. And if we take a look at**
 19 **Bates Document 31, is that the drawing we're**
 20 **referring to?**
 21 A. Yes.
 22 **Q. Okay.**
 23 **Whose handwriting is that on the lower**
 24 **right-hand side where it says "golden beach"?**
 25 A. That is mine.
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1 Davies
 2 A. It was a charge to purchase the sink.
 3 **Q. Thank you.**
 4 **MR. SCHROEDER: Mark as -- next**
 5 **document as Defendant's Exhibit 70.**
 6 **(Collection of various advertisements**
 7 **produced to Artisan, All Granite**
 8 **Bates-stamped 122, 123, 136, 137, 138, 139,**
 9 **140, 141, 144, 145, 147, 148, 149, and 150**
 10 **was marked Defendant's 70 for**
 11 **identification, as of this date.)**
 12 **Q. And let me state that Defendant's 70 a**
 13 **collection of various advertisements which have**
 14 **been produced to Artisan, containing Artisan**
 15 **Bates number -- apology, All Granite Bates**
 16 **Numbers 122, 123, 136, 137, 138, 139, 140, 141,**
 17 **144, 145, 147, 148, 149, and 150.**
 18 **Looking through this package of**
 19 **fliers, do you recognize the flier that you**
 20 **presented to Chris that day?**
 21 A. No.
 22 **Q. Was it similar to any of the**
 23 **advertisements you see in this package, if you**
 24 **recall?**
 25 A. It was similar, yes.
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Davies

Q. Do you recall any differences between the flier you presented that day and these fliers?

MR. MALTBIE: Objection to form. The difference between the flier or the difference between the coupon, the specific page?

Q. Let me rephrase that. Do you recognize any differences between the coupon you presented to Chris that day and the coupon shown in these fliers?

A. I don't recall the exact coupon, but they were similar -- it was similar to this. I remember some of the design.

Q. Thank you. Okay.

Do you recall whether the coupon you presented to Chris that day contained any reference to Artisan?

A. It did not.

Q. Did not. Did it contain any fleur-de-lis designs, if you recall?

A. It did not.

Q. Thank you.

Refer back to page 3 of your report,
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Davies

again to the first paragraph. You state, "The coupon the stated a free sink with installation of a kitchen countertop." Okay.

Following that, you say, "AD asked Chris what kind of sink it would be."

Now, up until this point, had Chris mentioned Artisan to you?

A. No.

Q. Okay. Your report next states that Chris said there was a display in the rear AD could choose from. AD asked more specifically what brand of sink, and that on the previous visit, AD was told of the Artisan sinks. Correct?

A. Yes.

Q. Now, your report next states that at this point, Chris confirmed that an Artisan sink could be installed.

Do you recall his exact words? Were those exact words?

A. Yes.

Q. Okay. Thank you.

Your report then says, "AD and Chris then viewed the sink display."

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Davies

And this would be the same sink display we saw earlier in the photographs attached to your report, correct?

A. Correct.

Q. Now, were these photographs taken during your first visit, on November 6, or during your second visit, on November 27?

A. They were taken on the first visit.

Q. During the first visit. When you returned on November 27, were there any difference in the display of sinks in that second room?

A. No.

Q. Okay. Your report next states that since Mr. Amabile requested a D bowl, AD confirmed with Chris that the D bowl on display was an Artisan sink.

Now, let's turn to Bates Document 27. Which of these sinks is the D bowl that you refer to in your report?

A. I wasn't looking at this sheet on that day.

Q. Okay. Sitting here today, can you tell me which sink that would have been?

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Davies

A. Can you repeat that first question?

Q. Okay. If you look at your statement that since Mr. Amabile requested a D bowl, AD confirmed with Chris that the D bowl on display was an Artisan sink.

Well, let's maybe address it this way: If we refer back to Bates Document 38, to the upper photograph, 8455R.

A. Yes.

Q. Is that the D bowl you refer to at that point of the report?

A. That is the sink that I was told was the R design, was the sink that's in the picture.

Q. Okay, but is that the D bowl you referred to at that point in the report?

A. Yes.

Q. That's the same D bowl.

A. I -- actually, I don't know. The D bowl that he was pointing to that day, he said was an Artisan sink.

Q. Okay. Do you recall which sink that Chris pointed to that -- that day, which is the second visit? Is it shown on any of the

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1 **Davies**
2 **photographs?**
3 A. I -- I don't see a picture of it. I
4 don't know which one it was on the display, from
5 these photographs.
6 Q. Did Mr. Amabile want a double bowl
7 sink in his house, did you know?
8 A. No, I believe it was a single. It was
9 a single sink D bowl.
10 Q. He wanted a single sink D bowl.
11 A. Yes.
12 Q. And as far as you know, a single sink
13 D bowl was installed in his house, correct?
14 A. Correct.
15 Q. Now, that day when Chris confirmed
16 that the D bowl on display was an Artisan sink,
17 did you verify that representation?
18 MR. MALTBIE: Objection to form.
19 Q. For example, did you look at that sink
20 to see if it depicted a fleur-de-lis logo?
21 A. No.
22 Q. Did you look at the sink?
23 A. Yes.
24 Q. Did it have a fleur-de-lis logo?
25 A. I didn't see it.

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1 **Davies**
2 **bottom, which is representative of an Artisan**
3 **sink.**
4 A. Yes.
5 Q. So in your mind that was an Artisan
6 sink on display that day?
7 MR. MALTBIE: Objection to form.
8 A. I don't know how to answer.
9 Q. Did you believe -- let me rephrase
10 that question.
11 That day, during your second visit,
12 did you believe or disbelieve Chris's
13 representation that that particular sink he
14 pointed to was an Artisan sink?
15 A. I believed that was an Artisan sink.
16 Q. You believed that was an Artisan sink.
17 Thank you.
18 Okay. "Thereafter, AD and Chris
19 returned to his desk to finalize the order."
20 Now, when we refer to these
21 photographs attached as Bates Documents 39 and
22 40, was that Chris we see there in the
23 photograph, in the blue hooded sweatshirt?
24 A. No. That's Peter. Peter is in the
25 blue.

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1 **Davies**
2 Q. Okay. Did you look under the sink to
3 see if it had a padding?
4 A. Yes.
5 Q. Did it have the padding?
6 A. Yes.
7 Q. It did have the padding.
8 So the sink, the D bowl on display
9 that day, was -- go back over this again.
10 November 27, your second visit, when
11 you requested the D bowl sink, which would have
12 been a single basin sink that second visit,
13 correct?
14 A. Correct.
15 Q. Your report says that AD confirmed
16 with Chris that the D bowl on display was an
17 Artisan sink. So Chris tells you the sink, this
18 D bowl sink on display, is an Artisan sink,
19 correct?
20 A. Yes.
21 Q. Now, when you observed the sink, you
22 did not observe a fleur-de-lis logo on it,
23 correct?
24 A. I did not.
25 Q. You did observe the padding on the

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1 **Davies**
2 Q. Peter. Oh, correct. This was -- the
3 photographs were taken during your advisory
4 visit, so that would be Peter in the blue.
5 A. Yes.
6 Q. Who is the fellow sitting next to
7 Peter in the tannish short-sleeve shirt, if you
8 know?
9 A. That is Chris.
10 Q. That's Chris. So Chris was there the
11 first day, although you didn't know if it was
12 that first day, that first visit.
13 A. Correct.
14 Q. Thank you.
15 If we go back to your report, Chris
16 said as soon as the template was measured, the
17 countertop would be installed three days later.
18 AD confirmed with Mr. Amabile that November 29
19 would be the date of the template and countertop
20 removal.
21 Now, did you pay to have the
22 countertop of Mr. Amabile removed?
23 A. I didn't pay anything.
24 Q. Did Mr. Amabile pay for the countertop
25 removal?

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Davies

A. Yes.

Q. There's a reference on Bates Document 30, a charge of \$350 for removal.

Was that the charge that was paid, to the best of your knowledge?

A. Yes.

Q. Okay. Do you know whether that charge included All Granite's promise to carry away the old countertop?

A. It was supposed to, yes.

Q. Did they tell you that?

A. Yes.

Q. Who told you that?

A. Chris.

Q. That they would actually remove the countertop and take it away from the job site.

A. Yes.

Q. Thank you.

Okay. If we go back to the report, now we're into the second paragraph. "AD requested to see the piece of granite that would be installed. Chris says AD would have to leave the 50 percent deposit with him first."

Can you elaborate on that, if

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Davies

possible?

A. I requested to see the piece of granite, and he said I had to leave the 50 percent deposit with him to, I guess, finalize the order.

Q. Okay. Your next statement says, "After agreeing to leave the deposit, Chris took AD to the warehouse area of the store."

So you told him you would leave a deposit, but you didn't actually leave a deposit at that point, correct?

A. Correct.

Q. Now, when you say took you to the warehouse area of store, if you refer back to Bates Document 36, those red doors we see, that leads to the warehouse area of the store?

A. Yes.

Q. And as you said earlier, in that section that's the interior section which contains various granite slabs?

A. Yes.

Q. How long did you spend in that warehouse section with Chris?

A. About five minutes.

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Davies

Q. How did you select the particular granite slab that was installed?

MR. MALTBIE: Objection to form.

A. I didn't select it.

Q. How was that process completed?

MR. MALTBIE: Objection to form.

A. He took me to the section where the granite was stored that I had chosen for the installation.

Q. So you had a color selected already. And did Chris then take you to the section that's -- contained granite slabs of that color?

A. Yes.

Q. And how many slabs were there?

A. There was about five or six, I believe.

Q. Okay.

Your report says -- your report says five slabs, but couldn't remove the slabs because the top slab had a paper template taped to it.

Can you elaborate on that point?

MR. MALTBIE: Objection to form.

A. There was a paper cutout that -- he

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Davies

said, Oh, this a template. I can't move these pieces of granite.

Q. Okay. Could that have been a job in progress, maybe a job had been marked? Do you know?

A. I don't know.

Q. Okay. He said he would pick out a nice one.

Was there any complaints about the granite countertop that was picked out?

MR. MALTBIE: Objection to form.

A. I don't know.

Q. Did Mr. Amabile have any complaints that you're aware of?

A. I don't know.

Q. Okay. Thank you.

Okay. Next it says, "AD then asked to see the sinks. Chris said he couldn't show them because they weren't stored in the warehouse."

Are those his exact words?

A. Yes.

Q. "AD again confirmed that an Artisan sink would be installed."

Do you recall exactly what you said to

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1 Davies

2 Chris at that point?

3 A. I said, "It will be an Artisan sink,
4 right?" You know, just to confirm that that's
5 exactly -- since I don't see the granite and I
6 wanted to see the sink, and he wouldn't show me
7 the sink, so I just wanted to confirm with him
8 my exact sink that I had ordered.

9 Q. Okay. Thank you.

10 "The AD expressed that she had been
11 there before and discussed with another sales
12 rep about having an Artisan sink installed."

13 So you told Chris about your visit
14 with Peter, correct?

15 A. Yes.

16 Q. Is there anything in particular you
17 told Chris at that point?

18 A. No.

19 Q. "Again, Chris confirmed that the
20 Artisan would be installed. Chris told AD that
21 she would be called at the end of the business
22 day on November 28 to confirm the arrival time
23 to Frenchtown for the template measurements and
24 countertop removal."

25 Did that take place, the phone call

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1 Davies

2 countertop, and made final measurements for the
3 template.

4 Mr. Amabile paid \$1,600 plus an extra
5 250 for removal of the countertop, for a total
6 of 1850 in cash.

7 So this says 250. The page we looked
8 at earlier said 350. Do you know offhand what
9 amount was actually paid for removal of the
10 countertop?

11 A. I don't.

12 Q. Okay. All Granite removed the
13 countertop from kitchen, but left it in
14 Mr. Amabile's driveway.

15 Did you see that in his driveway?

16 A. No, I did not.

17 Q. On December 3, 2007, All Granite
18 called AD to finalize the bill. Final total was
19 2713.03, plus 351.35 for the edge. There's 150
20 for sink cutout, plus 350 for the removal.

21 With taxes, it all came to 3813.89,
22 minus 1850 for the deposit.

23 Did you see the countertop after it
24 was installed?

25 A. No, I did not.

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1 Davies

2 take place?

3 A. Yes.

4 Q. On that day?

5 A. On the 28th, yes.

6 Q. "Chris said to have 50 percent of the
7 total bill in cash or certified check ready at
8 the time of measurements."

9 And that day, you said, you did not
10 leave a deposit.

11 A. Correct.

12 Q. Did they, again, request you to leave
13 a deposit that day before you left the store?

14 A. Only one time in the beginning, not a
15 second time.

16 Q. Okay. Thank you.

17 Okay. Your final paragraph, on page 3
18 of the report:

19 November 28, the representative from
20 All Granite called AD to finalize a time of
21 templating. November 29, a crew from All
22 Granite went to Mr. Amabile's house at 134
23 Tinsmans, T-I-N-S-M-A-N-S, Road, Frenchtown, New
24 Jersey. November 30, Mr. Amabile called AD to
25 confirm they came, ripped out the existing

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1 Davies

2 Q. Have you heard from Mr. Amabile's
3 house?

4 A. No.

5 MR. SCHROEDER: Why don't we take a
6 five-minute break here, at this point.

7 (Recess from 12:58 to 1:07.)

8 BY MR. SCHROEDER:

9 Q. Was this the only report that you
10 prepared? And by that I mean Defendant's
11 Exhibit 68.

12 A. Yes.

13 Q. Besides yourself, did anyone else from
14 your company visit any of All Granite's
15 showrooms, and -- that includes Mr. Oberfeldt --
16 besides Mr. Oberfeldt, did anyone else ever
17 visit All Granite's facilities?

18 A. No.

19 Q. On either of your occasions to the
20 showroom, did you observe any usage of the word
21 "Artisan" in the showroom?

22 A. Like a sign, or --

23 Q. A sign, a banner, a flier.

24 A. No.

25 Q. Other than on the sink, which you

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1 **Davies**
 2 **observed during your first visit, did you see**
 3 **the fleur-de-lis logo anywhere in the showroom?**
 4 **A. No, I did not.**
 5 **Q. Did you speak to any customers on**
 6 **either of your visits to the showrooms?**
 7 **A. No.**
 8 **Q. Have you spoken to any current or**
 9 **prior customers of All Granite?**
 10 **A. No.**
 11 **Q. Go back to your report for a minute.**
 12 **Take a look at Bates Document 38.**
 13 **That's the photograph of the 8455R sink.**
 14 **Okay?**
 15 **A. Yes.**
 16 **Q. Now, also turn to page -- or Bates**
 17 **Document 27. That's the spec sheet showing the**
 18 **various sinks. Okay?**
 19 **So, from the spec sheet, the 8455R**
 20 **sink is a double basin sink, correct?**
 21 **A. Yes.**
 22 **Q. And do you recall the sink on display**
 23 **that day that's shown in Bates Document 38 as**
 24 **being a double basin sink? And by that I mean**
 25 **the upper photograph.**
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1 **Davies**
 2 **A. Yes.**
 3 **Q. Okay. Thank you.**
 4 **And the sink ordered by Mr. Amabile**
 5 **was a single basin D-shaped sink, correct?**
 6 **A. Yes.**
 7 **Q. Now, would that be the sink, the**
 8 **AF-590-529 sink, shown on the spec sheet on**
 9 **Bates Document 27?**
 10 **A. I don't -- I don't know.**
 11 **Q. Okay. Thank you.**
 12 **But it was a single basin D-shaped**
 13 **sink that Mr. Amabile ordered.**
 14 **A. Yes.**
 15 **Q. Actually, you ordered, but on behalf**
 16 **of Mr. Amabile.**
 17 **A. Yes.**
 18 **Q. Thank you.**
 19 **MR. SCHROEDER: I'll mark this next**
 20 **document as Defendant's 71, and it's**
 21 **Artisan Bates Document 178.**
 22 **(Document with Artisan Bates-stamp 178**
 23 **was marked Defendant's 71 for**
 24 **identification, as of this date.)**
 25 **Q. Ms. Davies, when you met with the**
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1 **Davies**
 2 **A. I don't believe it was a double sink.**
 3 **Q. You don't recall, or you don't**
 4 **believe?**
 5 **A. I don't recall. I don't recall.**
 6 **Q. Now, referring back to Bates Document**
 7 **38, the lower photograph, the AF-590-529 -- and**
 8 **again, if we jump back to the spec sheet on**
 9 **Bates Document 27, that sink is shown at the top**
 10 **as being a single basin D sink.**
 11 **A. Yes.**
 12 **Q. Do you recall whether the sink shown**
 13 **in the photograph on the lower photograph, on**
 14 **Bates Document 38, was a single basin sink?**
 15 **A. Yes.**
 16 **Q. It was.**
 17 **A. Uh-huh.**
 18 **Q. You recall it being --**
 19 **A. Yes. I recall it definitely being**
 20 **single.**
 21 **Q. And that's the lower photograph on**
 22 **document 38.**
 23 **A. Yes.**
 24 **Q. Which agrees, then, with the spec**
 25 **sheet, which is Bates Document 27.**
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1 **Davies**
 2 **Artisan personnel back on November 2, did they**
 3 **show you any spec sheets describing the various**
 4 **sinks?**
 5 **A. No. They did not.**
 6 **Q. Have you ever seen a spec sheet like**
 7 **this before?**
 8 **A. No.**
 9 **Q. If we refer back to your declaration,**
 10 **to page 2, the first full paragraph, this is**
 11 **your first visit, when you spoke with Mr. Bucko.**
 12 **And you referred to the D-shaped double sink,**
 13 **Serial Number 8455R. And in the next paragraph,**
 14 **you talk about observing the Artisan logo under**
 15 **the 4-by-6 paper.**
 16 **Can you -- let me rephrase that.**
 17 **Are you capable today of picking out**
 18 **which Artisan sink was on display that day from**
 19 **the spec sheet I've shown you?**
 20 **A. No.**
 21 **MR. MALTBIIE: Objection to form.**
 22 **Q. Okay, thank you.**
 23 **MR. SCHROEDER: Let me mark this**
 24 **following document as Defendant's 72.**
 25 **(Ms. Davies' declaration was marked**
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1 Davies
2 Defendant's 72 for identification, as of
3 this date.)
4 **Q. Ms. Davies, Defendant's Exhibit 72 is**
5 **a copy of your declaration. I assume you've**
6 **seen this before?**
7 A. Yes.
8 **Q. Okay. And that's your signature which**
9 **appears on page 4, correct?**
10 A. Correct.
11 **Q. Now, most of these statements we've**
12 **already addressed with respect to your**
13 **investigation report. But if I could refer your**
14 **attention to paragraph 5, where you refer to the**
15 **D-shaped double sink.**
16 **Do you see that?**
17 A. Yes.
18 **Q. Mr. Bucko pointed to the D-shaped**
19 **double sink with the Serial Number 8554 and the**
20 **price of \$250. Okay?**
21 A. Uh-huh.
22 **Q. Now, if I could direct your attention**
23 **down to paragraph 7, the last sentence.**
24 A. Yes.
25 **Q. This is now during your second visit,**
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1 Davies
2 MR. MALTBIE: Which one are you asking
3 about? Which one was installed, or which
4 one she ordered, which one she was shown
5 the first visit?
6 **Q. Let me rephrase that question so we're**
7 **clear.**
8 **Is the D-shaped sink referred to in**
9 **paragraph 7, which just says D, the same sink**
10 **that we referred to in paragraph 5, which says**
11 **D-shaped double sink? Are they one and the same**
12 **sink?**
13 A. The D-shaped double sink is the one
14 that was on display. The D-shape that I'm
15 talking to Chris about is the -- a D-shaped -- a
16 D-shaped sink that Joe wanted installed.
17 **Q. Okay. So the D-shaped sink in**
18 **paragraph 7 would be a D-shaped single bowl**
19 **sink.**
20 A. I know what you're asking me, and I --
21 I don't know if the second time that I went
22 there, if the one he pointed to was a double
23 shaped sink, but I know that that was the one
24 that he said was an Artisan sink.
25 **Q. During your second visit to the store,**
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1 Davies
2 **when you actually purchased the countertop.**
3 **Correct?**
4 A. Yes.
5 **Q. Okay. The last sentence says, "Chris**
6 **and I then walked over to the sink display and**
7 **he confirmed to me that the D sink on display**
8 **was an Artisan sink."**
9 **Now, is the D sink you refer to in**
10 **paragraph 7 the same D sink you refer to in**
11 **paragraph 5?**
12 A. I don't know. I believe it is,
13 because this is my report that I wrote the day
14 after I was there.
15 **Q. Okay. Thank you.**
16 **Now, you did say earlier, though, that**
17 **Mr. Amabile ordered a single basin D-shaped**
18 **sink, correct?**
19 A. Yes.
20 **Q. But paragraph 5 refers to a D-shaped**
21 **double sink.**
22 **Do you recall which -- which it was?**
23 MR. MALTBIE: Objection to form.
24 **Q. Please feel free to look back at your**
25 **report, if necessary.**
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1 Davies
2 **when you spoke with Chris and you actually**
3 **ordered the countertop, at any time did you**
4 **investigate the sinks that were on display that**
5 **day? Did you repeat your investigation from**
6 **your first visit, where you looked at each sink**
7 **and looked at the underside of each sink?**
8 A. No.
9 **Q. So that second visit, you've only**
10 **looked at the sink that Chris had pointed out to**
11 **and referred to as an Artisan sink.**
12 A. Yes.
13 **Q. And as you said earlier, you didn't**
14 **observe a fleur-de-lis logo, but you did observe**
15 **the padding on the bottom and the sides of that**
16 **sink.**
17 A. Yes.
18 **Q. But you don't recall whether that was**
19 **a single bowl or a double bowl sink.**
20 A. I don't.
21 MR. SCHROEDER: Let's take a short,
22 two-minute break, and I may wrap it up.
23 (Recess from 1:19 to 1:21.)
24 MR. SCHROEDER: Okay, that's all for
25 today. No further questions. Thank you
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1 Davies
2 for coming in today, and that's it for me.
3 MR. MALTBIE: No questions. You're
4 free.
5 (Time noted: 1:21 p.m.)
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ALLISON DAVIES
Subscribed and sworn to before me
this day of 2008.

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C E R T I F I C A T E

STATE OF NEW YORK)

) Ss.:

COUNTY OF NEW YORK)

I JEFFREY BENZ, a Certified Realtime
Reporter, Registered Merit Reporter and
Notary Public within and for the State of
New York, do hereby certify:

That ALLISON DAVIES, the witness whose
examination is hereinbefore set forth, was
duly sworn by me and that this transcript
of such examination is a true record of the
testimony given by such witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage; and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 13th of February, 2008.

JEFFREY BENZ, CRR, RMR

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ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Artisan v. All Granite

Dep. Date: February 6, 2008

Deponent: Allison Davies

Pg. Ln.	Now Reads	Should Read	Reason
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7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19	_____	_____	_____

Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS ____ DAY OF _____, 2008

(Notary Public) MY COMMISSION EXPIRES: _____

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